

SENATE BILL 1290

By Burchett

AN ACT to amend Tennessee Code Annotated, Title 39;  
Title 44; Title 55 and Title 63, to enact the  
"Tennessee Equine Protection Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known, and may be cited as, the "Tennessee Equine Protection Act".

SECTION 2. As used in this act, unless the context otherwise requires:

(a) "Abandons" means to leave completely without providing adequate care:

(1) on property not owned, rented, or leased by an owner without written approval and without a contract of care from another party, for more than fourteen (14) days; or

(2) on property owned, rented, leased by an owner, for thirty (30) days, without a contract of care from another party;

(b) "Adequate care" means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an equine in a state of good health;

(c) "Certified Equine Cruelty Investigator" means a person who is an agent of any society incorporated for the prevention of cruelty to animals or a county or local law enforcement officer in the state of Tennessee, and who has forty (40) hours or more of equine cruelty and investigation training;

(d) "Contract for care" means an enforceable oral or written agreement between two persons which sets out that one person will provide adequate care for an equine for a determinate period of time;

(e) "Equine" means a horse, pony, mule, donkey, or hinny;

(f) "Equine for hire" means any horse, pony, mule, donkey, or hinney used or kept for hire, including, but not limited to, equine hired out for the purposes of riding, driving, or pulling.

(g) "Owner" means any person having a right or property interest in an equine or who has an equine in such person's care or acts as its custodian;

(h) "Person" means any individual, business entity, or any association of two or more persons having a joint or common interest;

(i) "Sanitary conditions" means space free from health hazards including excessive equine waste, overcrowding of equine, or other conditions that endanger the equine's health, but does not include a condition resulting from a customary and reasonable practice pursuant to farming;

(j) "Shelter" means adequate protection from the elements and weather conditions suitable for the age of the equine and physical condition of the equine, so as to maintain the equine in a state of good health, and includes structures or natural features such as trees or topography;

(k) "Torture" means every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted;

(l) "Vehicle" applies to every device in, upon, or by which any equine is or may be transported or drawn upon a highway, road, or way; and

(m) "Water" means potable water that is suitable for an equine, made regularly available unless otherwise directed by a licensed veterinarian.

### SECTION 3.

(a) A certified equine cruelty investigator may make arrests and bring before the general sessions court of any county offenders found violating the provisions of this part.

(b) Any certified animal cruelty investigator may lawfully interfere to prevent the perpetration of any act of cruelty upon any equine in that person's presence. Any person who interferes with or obstructs any certified equine cruelty investigator in the discharge of this duty commits a Class C misdemeanor.

(c) Notwithstanding § 39-14-210, all fines, penalties and forfeitures imposed and collected in any county, under provisions relating to or in any way affecting equines, shall go to the prevention and detection of equine cruelty in that county.

#### SECTION 4.

(a) A person commits an offense who knowingly:

(1) Tortures, maims, cruelly beats or grossly overworks an equine;

(2) Fails unreasonably to provide adequate care or shelter for an equine; a score less than three (3) on the Henneke Body Condition Score at the time of the offense without written documentation from a certified veterinarian stating reasons for the condition is prima facie evidence that an equine has not been provided adequate care;

(3) Abandons an equine or causes an equine to be abandoned, in any place, without making provisions for the equine's adequate care, unless premises are temporarily vacated for the protection of human life during a disaster; however, an equine that is lost by an owner while traveling, walking, hiking or hunting shall not be regarded as abandoned under this section when the owner has made a reasonable effort to locate the equine;

(4) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds and spices, to the legs, hooves, or rectal area in order to make the legs, hooves, or rectal area sore for any purpose including, but not limited to, competition in horse shows and similar events;

(5) Unnecessarily overloads, overdrives, torments, or beats an equine;

(6) Transports or confines an equine in a cruel manner;

(7) Knowingly drugs an equine for sale to cover up a defect either in temperament, injury or medical condition;

(8) Rides or drives an equine while under the influence of any intoxicant, marijuana, narcotic drug, or drug producing stimulating effects on the central nervous system as defined in § 55-10-401.

(9) Allows an equine to run at large due to inadequate fencing as set forth in § 44-8-103; or

(10) Interferes with or hinders the commissioner of agriculture or his or her designated agent, licensed veterinarian, certified equine cruelty investigator, or any law enforcement officer in carrying out his or her duties under this section.

(b) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices or medical treatment.

(c) Whenever any person is taken into custody by a law enforcement officer for violation of subdivision (a)(6), the officer may take charge of the vehicle used by the person to transport the equine and the equine. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the vehicle and its contents shall be a lien thereon, to be paid before such can lawfully be recovered. However, any lien shall be secondary to any lien for services by a licensed veterinarian pursuant to § 63-12-134.

(d) In addition to the penalty imposed in subsection (f), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the equine or equines whose treatment was the basis of the conviction. Custody shall be given to a humane society

incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other equine for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of equines necessary for the protection of the equines.

(e)

(1) Nothing in this section shall be construed as prohibiting the owner of an equine or someone acting with the consent of the owner of that equine from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that equine, including but not limited to acts done pursuant to Title 44, Part 7.

(2) It is an offense for a person other than a law enforcement officer, commissioner of agriculture or the commissioner's designated agent, any licensed veterinarian, or certified equine cruelty investigator acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (e)(1).

(3) A violation of subdivision (e)(2) is a Class B misdemeanor.

(f)

(1) A violation of subdivision (a) is a Class A misdemeanor.

(2) A second or subsequent violation of subdivision (a) is a Class E felony.

## SECTION 5.

(a) It is an offense for a person to knowingly and unlawfully kill an equine of another, with the intent to deprive the owner of the right to the equine's life and without the owner's effective consent.

(b) A person is justified in killing the equine of another:

(1) If that person acted under a reasonable belief that the equine was creating an imminent danger of death or serious bodily injury to that person or another or an imminent danger of death to an animal owned by that person; or

(2) If the equine in question is suffering from an injury or trauma that warrants the animal to be humanely euthanized pursuant to the owner's consent or court order.

(c) A person who violates subdivision (a) commits theft and shall be punished in accordance with the value of the equine as provided in § 39-14-105.

#### SECTION 6.

(a) If at any time there is reasonable cause to believe that a violation of this section has occurred, the commissioner of agriculture or the commissioner's designated agent, any licensed veterinarian, certified equine cruelty investigator, or any law enforcement officer may apply to the general sessions court in the county in which the equine is located for a search warrant for the purpose of inspecting any equine found on such property to determine if a violation of this part has occurred.

(b) The commissioner or the commissioner's designated agent, any licensed veterinarian, certified equine cruelty investigator, or law enforcement officer is authorized to impound any equine which has been subjected to any action which constitutes a violation of this part.

#### SECTION 7.

(a) It shall be the duty of any person designated for impounding an equine under this part to make reasonable and proper arrangements to provide the impounded equine with adequate care and to take such actions as to ensure the survival of the equine or the humane euthanasia of the equine and disposal thereof if such actions are necessary and pursuant to court order or the owner's consent.

(b) Any person impounding or caring for an equine under this section, shall have a lien on such equine for the reasonable costs of caring for such equine. However, such lien shall be secondary to any lien for services by a licensed veterinarian pursuant to § 63-12-134. When any equine is sold to satisfy a lien, any moneys realized from the sale, less such charges, and any expenses incurred in making the demand for payment thereof in connection with the sale, shall be paid to the owner of the equine.

#### SECTION 8.

Within forty-eight (48) hours after taking custody of an equine, the person taking the equine shall make reasonable efforts to notify the owner of the equine's whereabouts and condition. Such notice shall state the name and address of the person impounding the equine, description of the equine, and purpose of impoundment. If the owner of such equine is unknown or cannot be found, notice shall be given by publishing a notice seven (7) consecutive days in a newspaper of general circulation in the county in which the equine was impounded and on the public notice board at the county court house in which the equine was impounded.

#### SECTION 9.

If the owner is convicted pursuant to this part or if the owner of the equine cannot be found, the court may order that the commissioner or his or her designated agent, licensed veterinarian, certified equine cruelty investigator dispose of the equine through sale, sealed bids, adoption or, if such equine is in a physical condition such that euthanasia of an equine is the only reasonable course of action, a licensed veterinarian may euthanize the equine. If the owner of such equine is unknown or cannot be found, notice shall be given by publishing a notice fourteen (14) consecutive days in a newspaper of general circulation in the county in which the equine was impounded and

on the public notice board at the county court house in which the equine was impounded.

#### SECTION 10.

(a) Every vehicle used for the transportation of more than six (6) equine in this state shall meet the following requirements:

(1) The interior of the vehicle used to transport the equine shall be constructed of smooth materials, containing no sharp objects or protrusions which are hazardous or capable of causing lacerations, contusions or bruising;

(2) The floors of the vehicle used to transport the equine shall be of such construction or covered with a material so as to prevent equine from skidding or sliding;

(3) The vehicle used to transport the equine should have adequate ventilation including and not limited to roof vents;

(4) The vehicle used to transport the equine should have sufficient clearance to allow the equine to stand in an upright position;

(5) Ramps for loading and unloading of the vehicle used to transport the equine shall be provided if the vertical distance from the floor to the ground is greater than fifteen (15) inches; and

(6) The vehicle used to transport equine shall have no more than one (1) tier holding animals in the compartment containing equine.

(b) A violation of this section is a Class C misdemeanor.

#### SECTION 11.

(a) It is an offense for any person to transport into the state any equine without proof of negative Coggins Test within the past six (6) months.



(b) It is an offense for any person to use an equine on or public sights, such as, but not limited to, public trails, shows, fairs, race tracks, that do not have proof of negative Coggins Test within the past twelve (12) months.

(c) It is an offense for any person to change ownership without proof of negative Coggins Test within six (6) months prior to the change in ownership.

(d) For purposes of this section, "Coggins Test" is the agar gel immunodiffusion blood test conducted by an approved laboratory and a certified veterinarian.

(e) It is an offense for anyone transporting an equine into the state to not stop at interstate inspection stations upon entering the state to receive a certificate of approval. At each inspection station a law enforcement officer shall inspect the vehicle for violations of this part. If no violations of this part are found, a certificate of approval shall be issued to the driver of the vehicle transporting such equine with the date and time of inspection. The certificate of approval shall be kept by the driver in the vehicle until the vehicle exits the state.

(f) A violation of this section is a Class C misdemeanor punishable only by a fine of not less than fifty dollars (\$50) or more than one thousand dollars (\$1,000) and impoundment of the equine and vehicle.

## SECTION 12.

Nothing in this part shall be construed as limiting or restricting the powers of the commissioner of agriculture or the state veterinarian relative to the supervision of all animals within the state or that may be in transit through the state as set out in § 44-2-102.

## SECTION 13.

(a) All provisions of this part shall apply to equine for hire.

(b) In addition to the offenses set out in this part, it is an offense for any person

to hire out an equine that is sick, injured or otherwise in need of medical treatment.

(c) A violation of this subsection (c) is a Class C misdemeanor punishable by fine of twenty-five dollars (\$25) for every day there is a violation.

SECTION 14. This act shall take effect July 1, 2007 the public welfare requiring it.